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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,106	12/27/2000	Cary Lee Bates	ROC920000234US1	6268

7590 03/23/2006

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EXAMINER

VU, NGOC K

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/749,106

Applicant(s)

BATES ET AL.

Examiner

Ngoc K. Vu

Art Unit

2611

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: 5.
Claim(s) rejected: 1-4 and 6-31.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.



Ngoc K. Vu
Primary Examiner
Art Unit: 2611

Continuation of 3. NOTE: Amended claim 15 raises new issue that would require further consideration.

Applicant's arguments have been considered but they are not persuasive. First, applicant merely argues that Bonomi does not teach a subscriber belonging to subscriber group defined by two or more subscribers. In response, Bonomi discloses that a customer management module permits multiple sub-accounts under a general account, which is particular useful to a family with one or more minor. Bonomi further discloses that an adult account 1622 can access full services 1628 subscribed under the family account while the minor accounts 1624 and 1624 and 1626 are permitted to access limited services 1629 and 1630 (see col. 36, lines 20-38). For example, one or more members or users in a family may have different accounts with television service provider to access different levels of services. From this view, it is recognized that a family may be considered as "subscriber group". Alternatively, a number of customers 1202 of television service as shown in figures 12A-12H is considered as "subscriber group". Accordingly, Bonomi teaches the feature of a subscriber belonging to subscriber group defined by two or more subscribers. Second, applicant argues that the price in Pallakoff is based on aggregate demand, therefore Pallakoff does not describe determining "a first price" and "a second price" as claimed. In response, Pallakoff discloses that a system suggests the current users to tell their friends or other users about the offer in order to get more buyers to join the buying group. For example, the system sends a message "We just need 5 more people to join the Buying Team in order get the soccer balls for only \$10 each. Tell your friends!" to the users (see col. 10, lines 43-56). From this view, "the threshold number of subscribers" equates to at least 5 people. That is, Pallakoff teaches determining a group discount price that requires a certain number of buyers must have joined the group and purchase the product/service. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Bonomi by including a group discount price if more than five customers to join the Buying Team to get a special offer as taught by Pallakoff in order to get more buyers.